

THE HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

POINTSTORY, LLC, a Washington limited
liability company,

Plaintiff,

v.

PROTALUS USA, LLC, a Delaware limited
liability company,

Defendant.

Case No. 2:23-cv-01691-MLP

**DEFENDANT'S MOTION IN
LIMINE**

Defendant Protalus USA, LLC ("Protalus") moves the Court for an order regarding the admissibility of potentially proffered evidence as described below. This motion is supported by the pleadings and record on file with the Court and the points and authorities below.

MOTION 1

Protalus moves for an order prohibiting plaintiff PointStory, LLC ("PointStory") from presenting any expert witness testimony or any rebuttal to Protalus's expert witness testimony.

POINTS AND AUTHORITIES

A party must disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. FRCP 26(a)(2)(A). Disclosure of expert testimony is made at the times and in the sequence directed by the Court. Compliance with FRCP 26(a)(2) regarding identification of expert and submission of

1 expert's report is a condition precedent to use of expert testimony at trial. *ABB Air Preheater,*
2 *Inc. v. Regenerative Environmental Equipment Co., Inc.*, 167 F.R.D. 668 (D.N.J. 1996); *see also*
3 *Exxon Corp. v. Halcon Shipping Co., Ltd.*, 156 F.R.D. 589, 30 Fed. R. Serv. 3d (LCP) 1135
4 (D.N.J. 1994) (finding the plaintiff was properly precluded from calling expert witness in
5 liability stage of trial where it failed to designate expert until long after deadline for doing so had
6 passed, in clear violation of court's scheduling order).

7 Here, the Court set February 17, 2025 as the deadline for reports of expert witnesses and
8 February 28, 2025 as the deadline for rebuttal expert disclosures. PointStory has not served any
9 expert witness disclosure in this case, and the deadlines for doing so have long passed.
10 PointStory should therefore be precluded from introducing any expert witness testimony at trial.
11

12 DATED: April 18, 2025

13
14 CHENOWETH LAW GROUP, PC

15 s/ Brian D. Chenoweth
16 BRIAN D. CHENOWETH, WSBA No. 25877

17 *Attorney for Defendant*
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DECLARATION OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing **DEFENDANT'S MOTIONS IN LIMINE** on the following person(s) in the manner indicated below at the following address(es):

Nicholas W. Juhl
Lovik & Juhl, PLLC
936 N 34th Street, Suite 300
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Attorney for Plaintiff

by the following method(s)

xx by **e-service / emailing** a full, true and correct copy thereof to the parties at the email addresses shown above, which are the last-known email addresses of the parties, on the date set forth below.

— by **mailing** a full, true and correct copy thereof in a sealed, first-class, postage pre-paid envelope, addressed to the last-known address of the parties as shown above, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.

Dated: April 18, 2025

CHENOWETH LAW GROUP, PC

s/ Brian Martinez
Brian Martinez, Paralegal